## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS EL PASO DIVISION

JESSICA MELENDEZ-CARRILLO,
Individually and on behalf of others
similarly situated,

Plaintiffs,

V.

Plaintiffs,

EP-16-CV-00472-DCG

TENET HOSPITALS LIMITED, d/b/a
Providence Memorial Hospital, n/k/a The
Hospitals of Providence; PASO DEL
NORTE HEALTH FOUNDATION; and
ESPERANZA "ESPY" MARTINEZ,

Defendants.

**ORDER** 

Before the Court is "Notice of Nonsuit Without Prejudice Pursuant to Texas Civil Practice and Remedies Code Annotated § 74.351 Or in the Alternative Motion to Dismiss" (ECF No. 5) ("Motion to Dismiss"), filed on January 18, 2017, by Plaintiff Jessica Melendez-Carrillo, individually and on behalf of others similarly situated (collectively "Plaintiffs"). Therein, Plaintiffs state that "they are taking a nonsuit without prejudice of all of their claims and causes of action against" all named Defendants "effective immediately upon the filing of this Notice of Non-Suit without prejudice Pursuant to Texas Civil and Practice Remedies Code Annotated §74.351 or in the Alternative, Plaintiffs file this, their Motion to Dismiss without Prejudice." Mot. to Dismiss at 1, ECF No. 5. Plaintiffs' counsel states that when he contacted defense counsel for purposes of meet and confer, "Defendant's [sic] counsel indicated they could not advise whether they are opposed to the motion." *Id.* at 2.

The deadline for a response by Defendants has passed. Accordingly, and pursuant to this District's Local Rule CV-7(e)(2) and Federal Rule of Civil Procedure 41(a)(2),2 the Court enters the following orders:

IT IS HEREBY ORDERED that all of Plaintiffs' claims and causes of action against the named defendants are DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that all pending motions, if any, are DENIED AS MOOT.

IT IS FINALLY ORDERED that the District Clerk SHALL CLOSE this case.

So ORDERED and SIGNED this 3 day of February 2017.

UNITED STATES DISTRICT JUDGE

<sup>&</sup>lt;sup>1</sup> See Local Rule CV-7(e)(2) ("A response to a dispositive motion shall be filed not later than 14 days after the filing of the motion. . . . If there is no response filed within the time period prescribed by this rule, the court may grant the motion as unopposed." (emphasis added)); see also id. CV-7(c) ("For purposes of this rule, a "dispositive motion" is a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment or partial summary judgment, a motion for new trial, or a motion for judgment as a matter of law.").

<sup>&</sup>lt;sup>2</sup> This case originated in the 168th District Court of El Paso County, Texas, where Defendants filed an answer, but did not assert any counterclaims. Defs.' Notice of Removal, Ex. 2, ECF No. 1-2.